

DOCKET NO. W2004-01

**WORKERS' COMPENSATION RATING AND INSPECTION BUREAU OF MASSACHUSETTS
PROPOSED NEW CLASSIFICATION
CLASSIFICATION CODE 8747 – "DISPLAY SHOWROOMS – ALL TYPES"**

DECISION AND ORDER

Pursuant to G.L. c. 152, § 53A, this proceeding is a review of a proposal by the Workers' Compensation Rating and Inspection Bureau of Massachusetts (WCRIB) to establish a new classification designated as Code 8747 – "Display Showrooms – All Types."

On April 23, 2004, the WCRIB filed with the Division of Insurance a proposal to establish a new classification in Massachusetts for display showrooms. Implementation of this new classification would require revisions to the Massachusetts Workers' Compensation and Employers Liability Insurance Manual, the Retrospective Rating Manual, and the Experience Rating Plan Manual for Workers' Compensation and Employers Liability Insurance.

The establishment of this classification would effectively reassign all qualifying display showroom locations from store classifications to Code 8747. Until the new code develops sufficient experience to permit credible class rating, employers will receive the same rate and rating values as those employers assigned to Code 8017 – "Store: Retail, NOC." At this initial rate, qualifying employers that are currently assigned to store classification codes such as Codes 8808, 8018, 8032, 8044, 8111, and 8235 would experience a reduction in premium. Employers that are incorrectly assigned to standard exception classifications 8810 and 8742 would

experience an increase in premium. The proposed effective date of these amendments is July 1, 2004.

A hearing was held on June 9, 2004, to consider the WCRIB's filing. Ellen Keefe, Esq., represented the WCRIB, and was accompanied by Daniel Crowley, Vice President of the WCRIB. Norma Brettell, Esq., represented the State Rating Bureau (SRB), and was accompanied by Walter Horn, PhD., Director of Workers' Compensation Research. No other person or entity requested an opportunity to present testimony, or requested leave to participate in the proceeding. Ms. Keefe presented a statement in support of the WCRIB's proposal. Dr. Horn stated that the SRB had no objection to the WCRIB's proposal, but recommended a series of minor amendments to the filing in order to ensure its internal consistency. The WCRIB agreed to those amendments, and indicated that it would submit a revised filing in which those changes would be reflected.

On June 10, 2004, the WCRIB submitted an amended filing, in which it addressed the concerns identified by Dr. Horn.

Discussion

The WCRIB undertook, at the request of the Commissioner, a survey of the display showroom operators and furniture stores operating in Massachusetts. Although the new classification established by the filing will apply to display showrooms regardless of the type of merchandise featured, the largest number of retail establishments which will be affected by the new classification are expected to be those which have heretofore been classified as furniture stores (Classification Code 8044).

In its filing memorandum, the WCRIB reports that, for workers' compensation rating purposes, display showrooms can be appropriately distinguished from stores, and that there are clear functional aspects of display showroom operations that are significantly different from store operations. To qualify for assignment to Classification Code 8747, the business location must meet a series of requirements which serve to significantly reduce the risks to workers in those workplaces. The principal requirement is that all items sold by the display showroom must be received, warehoused, and shipped from a separate location, and that no over-the-counter or cash-and-carry sales may be conducted at the display showroom location. The sales staff's duties must be limited to selling from store displays, catalogs, and similar forms of samples. The

workplace risks presented to those staff members are therefore significantly less than those presented, for example, to staff who may be required to move furniture or other heavy items. The implementation of the new classification should immediately result in more reasonable rates for display showroom operations which are currently classified as furniture stores, and ultimately result in a classification with rates which accurately reflect the risks presented by these operations.

Under G.L. c. 152, § 53A(7), “[n]o proposed classifications . . . shall take effect until approved by the commissioner of insurance as not excessive, inadequate, or unfairly discriminatory for the risks to which they respectively apply, and as within a range of reasonableness.” Based on the record presented, the proposal submitted by the WCRIB represents a reasonable revision to the treatment of employees of display showrooms. The proposed classification is intended to avoid unfair discrimination among risks, and to improve the fairness of the overall rating system.

For the reasons set out above, the WCRIB has demonstrated on this record that its proposed Classification Code 8747 is reasonable and complies with G.L. c. 152, § 53A. Accordingly, the WCRIB’s filing, as amended June 10, 2004, is approved.

So Ordered.

June 23, 2004

Susan G. Anderson, Esq.
Presiding Officer

This decision may be appealed in accordance with the provisions of G.L. c. 26, § 7.